

MISSISSIPPI DEPARTMENT OF HEALTH

SUBGRANTEE MANUAL

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I. INTRODUCTION

This subgrantee manual has been prepared as a reference source and guide in the administration of subgrants awarded by the Mississippi Department of Health (MDH). The manual serves a three-fold purpose:

1. to ensure that subgrantee funds are used for the purposes for which they were awarded;
2. to safeguard public monies to the greatest extent possible; and
3. to provide guidance to subgrantees in establishing accounting procedures in accordance with federal and state requirements.

This manual provides simplified instructions and forms to establish uniform procedures for administering and monitoring all contracts to subgrantees. The manual establishes policy and outlines procedures to ensure that the MDH protects the funds it disburses, takes necessary measures to ensure the maximum return of services for those funds and that subgrantees are in compliance with applicable state and federal laws, rules, and regulations governing contracts and grants for service. The specific topics that the manual addresses include: Applicable Regulations, Standard Assurances, Financial Management, Procurement, Record Retention and Access, Audits and Monitoring, and Debarment and Suspension.

All contractors and subgrantees are required to comply with the directives set out in this manual.

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II. REGULATIONS

Subgrantees are expected to comply with the regulations, policies, guidelines and requirements imposed by the federal sponsoring agencies and the MDH. Subgrantees are to comply with State statutes and implementing regulations that are also applicable. Federal and State requirements include the specific program regulations applicable to each individual award as specified in the subgrant agreement.

Also applicable are the following Executive Orders, Federal Regulations, and Office of Management and Budget (OMB) Circulars, as implemented by the various Federal grantor agencies:

Cost Principles

- State, local or Indian tribal governments OMB Circular A-87, "Cost Principles for State, local and Indian Tribal Governments"
- Non-profit organizations OMB Circular A-122, Cost Principles for Nonprofit Organizations
- Educational institutions (Colleges and Universities) OMB Circular A-21, "Cost Principles for Educational Institutions"
- For-profit organizations 48 CFR Part 31, "Contract Cost Principles and Procedures"

Audit Requirements

- All subgrantees, except for-profit entities The Single Audit Act Amendments of 1996 (P.L. 104-156)

OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions"
OMB Circular A-133, Appendix B, Compliance Supplement

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- State and local governments
OMB Circular A-102, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- Non-profit organizations and educational institutions
OMB Circular A-110. "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Institutions"

Other Federal Regulations Requiring Certification of Compliance

- All Subgrantees
Government-Wide Common Rule for Debarment and Suspension (Nonprocurement). (As authorized by Executive Order 12549)

Government-Wide Requirements for a Drug Free Workplace (Grants), as implemented under the Drug Free Work Place Act of 1988. (P.L. 100-690, Title V, Subtitle D)

Restrictions on Lobbying - Common Rule (P.L. 101-121, Section 319)

For additional federal laws that must be followed, see the Standard Assurances and Certification section of this manual.

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III. ASSURANCES

Each subgrantee must assure that it will comply with the regulations, policies, guidelines, and requirements imposed by the Federal grantor agency and the MDH. The subgrantee is responsible for being familiar with the standard assurances policy for the granting program and funding source under which a subgrant is issued and adhering to it throughout the life of the subgrant. The assurances listed in this section may not be applicable to each project or grant, and there may be additional assurances required by certain Federal awarding agencies. The Federal certifications that cover Lobbying, Debarment/Suspension and Drug-Free Workplace Requirements, and require a signature of the subgrantee's authorized representative, are also included in this section.

The subgrantee assures that it:

1. has the legal authority to apply for and receive the subgrant; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the subgrantee's governing body, authorizing the subgrant, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the subgrantee to act in connection with the subgrant and to provide such additional information as may be required.
2. will give the MDH, the State Auditor's Office, the Federal grantor agency, and the Comptroller General, or any other applicable or necessary state or federal entity, through any of their authorized representatives, access to and the right to examine all records, books, papers, documents, or items related to the subgrant.
3. will establish and maintain both fiscal and program controls and accounting procedures in accordance with generally accepted accounting principles and Federal grantor agency and the MDH directives; and will keep and maintain such books and records for audit by the MDH, by the Federal grantor agency, by the State Auditor, or by their authorized representatives; and will maintain all such records, books, papers, documents, or items for a period of at least three (3) years from the date of final program reimbursement, or, if any litigation, claim, audit, or action has begun before the

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expiration of the three (3) year period, will retain all such items until the completion of the action and resolution of all issues involved or until the end of the regular three (3) year period, whichever is later; and will, subsequent to the above-stated period, obtain written approval from the MDH Program Director or the granting MDH Division before destruction of any such items as described above.

4. will comply with the Single Audit Act of 1996.

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IV. FINANCIAL MANAGEMENT

Overview

The applicable regulations and MDH policies require that subgrantees have in place, prior to receipt of any funds, a financial management system that will provide:

- Accurate, current, and complete disclosure of the financial status of each subgrant program;
- Records which identify the source and application of funds for subgrant-supported activities, specifically information pertaining to subgrant awards, obligations, unobligated balances, assets, liabilities, outlays and income;
- Effective control over and accountability for all grant funds, property, and other assets;
- Comparison of actual expenditures with budgeted amounts for each cost category and work activity;
- Procedures for determining that all costs are allowable and that they may be allocated to an activity;
- Procedures to ensure that each expense paid from a subgrant was authorized in the budget of the subgrant charged with the expense;
- Accounting records that are supported by source documentation;
- Where applicable, audits or financial reviews which analyze the fiscal integrity of subgrantee; and
- A systematic method to assure timely and appropriate resolution of audit findings and identified in auditors or management reviews.

The subgrantee must be able to isolate and trace every subgrant dollar and have appropriate support documentation for each transaction. Examples of documentation are vendor invoices, bills of lading, purchase orders, payment vouchers, payroll records, and bank statements and reconciliations.

The basic accounting records and documents listed below comprise the framework

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for a good financial management system. If implemented properly, such a system can provide accurate, current, and complete disclosure of the financial status of each grant supported program, work activity and cost category:

- Cash Receipts Journal
- Cash Disbursements Journal
- Payroll Journal
- General Ledger
- Subsidiary Ledger(s)

Accounting Procedures

Subgrantees must develop accounting procedures to meet the particular needs of the grant-supported project. Recording procedures must be designed to provide information accurately while at the same time serving as an effective control in preventing mistakes and safeguarding against unauthorized uses of funds.

Internal Controls

Subgrantees should have in place a management system that contains adequate internal controls (accounting and administrative) for the administration of the subgrant program. This system of internal controls will be tested during reviews of the subgrantee. The following are suggested internal accounting control procedures for grantees:

- Record all cash receipts immediately;
- Conduct periodic independent comparison of deposit slips with receipts and bank statements;
- Bond employees who handle cash;
- Deposit all cash receipts daily;
- Make all payments by pre-numbered checks;

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- Reconcile bank accounts monthly and retain a copy of the reconciliation in the files;
- Use serially numbered purchase orders;
- Issue checks to vendors only in payment of approved invoices which have been matched with purchase orders and receiving reports;
- Separate staff duties so that one person does not perform all accounting functions from the time funds are received until the funds are disbursed;
- Mark all documentation paid to prevent duplicate payments; and
- Retain a CPA firm for an audit or review, if applicable. See Audit and Monitoring Section for more information.

Acknowledging that some subgrantees are small organizations with few internal resources, the following internal control suggestions should be considered by those entities:

- All checks should be cosigned and all supporting documentation should be closely reviewed and marked “paid” before or as each check is signed;
- The principal officer of the subgrantee organization should oversee all cash collections;
- A close examination of all monthly reporting to the MDH should be made, noting in particular any unusual month-to-month and budget-to-actual account variances; and
- Someone other than the person who prepares the checks and the bank deposits should reconcile the monthly bank statement.

In addition to internal accounting controls, the subgrantee should have administrative controls in place to ensure grant funds are not used in violation of the following federal laws and requirements:

- Political Activity (the Hatch Act and the Intergovernmental Personnel Act of 1970, as amended) - federal funds should not be used for partisan political activity of any kind by any person or organization involved in the

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administration of federally-assisted programs;

- Construction Contracts (the Davis-Bacon Act) - all laborers and mechanics employed by the contractors or subcontractors working on construction projects financed by federal assistance are paid wages not less than those established for the locality of the project by the Secretary of Labor;
- Civil Rights - no person is excluded from participation, or subject to discrimination in any program or activity funded in whole or in part by federal funds, on the basis of race, color, creed, age, sex, national origin, or handicap;
- Relocation and Real Property Acquisition (the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) - a program which acquires property or displaces people;
- Financial Reports - a system which provides assurance that all required financial reports are correctly completed and submitted before the reporting deadline;

Documentation Requirements

The accounting system of each MDH subgrantee should provide adequate documentation to support the subgrantee's financial claims. The following is a list of examples of adequate documentation for selected transaction types:

Category

Documentation

Grant Revenues

Federal, State, and Other Receipts
Category

Notice of Grant Award, request for
Documentation

reimbursement, cash receipts journal, validated deposit slips, and financial reports.

Program and other income

Record of service, purpose, amount, and deposit slips.

Matching Cash Contributions

Record of source donor, dates, rates, amounts, and deposit slips.

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Matching non-cash contributions

Record of donor, dates, rates, amounts, and activities performed (including agenda, date, time, and place of the activity), certification of cost, and market/appraised values.

Grant Expenditures

Salaries & Fringe Benefits

Personnel records, time sheets, and time distribution sheets. Distribution sheets are required when personnel time is charged to more than one grant program. Sheets must reflect actual time, not budgeted figures. Documentation should include gross pay and all amounts withheld, matched or paid by the subgrantee for various taxes paid.

Travel

Evidence of authorized travel, travel expense voucher showing all travel expenses were incurred for the benefit of the grant program; copies of supporting bills.

Telephone

Telephone bills, telephone logs stating the person called, the date and time of the call, the reason and purpose of the call, and the number called.

Equipment¹

Bids (if applicable), quotations, purchase orders, receiving reports, invoices, property records.

Category

Documentation

Supplies¹

Invoices and receiving reports.

Subsidies, Loans and Grants
(Payments to/for clients)

Client attendance records, documentation of services provided including dates, times, names, etc.

Other direct costs

Invoices, receipts, etc.

Indirect costs

Approved indirect cost rate or cost allocation plan, analysis of indirect costs charged in accordance with approved plan; rate is applied

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to the distribution base per the approved plan.

¹All purchases of equipment and supplies must be made in accordance with state purchasing requirements. More information is available from the grant's MDH program director.

Cost Allocation

Some MDH subgrantees may administer more than one subgrant/program at a time resulting in costs that are shared among the various subgrants/programs. In these cases, a cost allocation plan must be submitted as part of the subgrant to properly distribute these shared costs. Subgrantees are required to submit an operating budget that should disclose **all** funding sources and expenditures planned. Any required in-kind matching must be made from non-federal sources and must also be allocated among the various programs as needed.

Reference and Supplemental

All employees paid in whole or in part from grant funds or in-kind matching funds should prepare a time sheet indicating the hours worked each pay period on grant-supported projects. Based on these time sheets and the hourly payroll costs for each employee, a statement indicating the distribution of payroll charges should be prepared and submitted with the reimbursement request to the MDH.

Careful review of all vouchers and invoices by subgrantees is necessary to verify that they are legitimate costs eligible under the governing regulations. Further, officials should note that costs are properly allocated to the correct program or work activity. A receiving report system should be utilized to ensure payment for only those goods and services that are received.

Duly authorized representatives of the Federal grantor agency, the U. S. General Accounting Office, the State Auditor's Office, and the MDH shall have access to all books, bank accounts, records, reports, files, and other papers, data, or property belonging to or in use by subgrantees pertaining to the receipt and disbursement of grant funds and in-kind matching funds. All records must be retained for a period of not less than three years.

Separate financial records must be maintained for each grant fund. Separation serves record keeping requirements and also eliminates potential conflicts with subgrantees usual record keeping systems.

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Budget Preparation

The budget is used by the subgrantee to express its plan for expenditure of grant funds received and in-kind match provided. It is a management tool to be used in addressing general management functions such as planning, operational performance, and control. The approved budget will be utilized by programmatic and accounting personnel during review of reimbursement requests to determine the amounts requested for reimbursement are appropriate. In addition to the budget a budget justification should be provided documenting a detail listing of the various line item costs by activity included on the approved budget. (See a sample Budget at the end of this section.)

Budget Line Items

Salaries/Personnel Costs

This line item includes payments made to officers and employees of a subgrantee paid from grant funds or in-kind matching funds. The salary line should contain a listing, by position, of the gross salary amount to each full-time employee and/or proportionate share of each part-time employee who is paid by the subgrantee. This line should disclose if salaries are to be paid from grant funds or in-kind match. The salary line item will be strictly adhered to unless formal modification of the budget is requested and approved.

Fringe Benefits

This line should consist of the subgrantee's share of applicable fringe benefits should as retirement, FICA, group insurance, worker's compensation, and unemployment insurance cost. Fringe benefits will be limited based on the contract/subgrant agreement. The types and percentages of fringe benefits claimed must be documented in the budget.

Travel

Payments for transportation, lodging, subsistence and related costs to employees, officers, and volunteers who are in travel status on official business. This line item includes reimbursement to employees for travel, in-state and out-of-state, costs for conferences, meeting, etc. and staff reimbursements for use of private vehicles for

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grant-related functions. The rate of reimbursement cannot exceed the maximum rate per mile for private vehicle travel, and the maximum daily meal reimbursement established by the Mississippi Department of Finance and Administration. No reimbursements will be made for the costs of commuting.

Contractual Services

This line item includes payments for services rendered other than by employees of the subgrantee under formal or informal, written or unwritten, expressed or implied, contracts. This includes operating payments for postage, telephone, utilities, rent, repairing and servicing agreements, service charges, as well as programmatic payments for speakers, teachers, consultants, and other professionals.

Commodities

This line item includes payments for material and supplies that are consumed by use in the program and should include expendable items not required on the inventory of fixed assets. This includes cost of curriculum, manuals, paper, pens, other office supplies, etc.

Capital Outlay-Equipment

This line item includes payments for equipment, machinery, furniture, and fixtures that are required to be on an inventory of fixed assets. This includes office desks, chairs, computers, telephone systems, etc. It should be noted that not all grants or programs allow capital outlay expenditures.

Capital Outlay-Other

This line item includes payments for land, buildings, and improvements to buildings or land that materially increase their value or useful life. This may include architectural and engineering fees, advertising, and delivery and installation expenses when made a part of the contract of condition of sale. It should be noted that not all grants or programs allow capital outlay expenditures.

Subsidies, Loans, and Grants

This line item includes payments made to clients for assistance,

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grants to non-government institutions, grants to individuals, etc.

Indirect Cost

This line item includes those costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefited. It may be necessary to establish a number of pools of indirect costs. Indirect cost pools should be distributed to benefited cost objectives on a basis that will produce an equitable result in consideration of relative benefits derived.

Budget Justification

The Budget Justification should be included with the budget of the contract and should provide a detailed listing of information related to each line item in the budget. The information should include the following:

Personnel

A listing of the actual personnel working with the grant should be provided and should include job responsibilities, number of hours to be worked per week and for the budget period, and the rate of pay.

Fringe Benefits

Any additional information or explanation needed related to the fringe rates claimed in the budget should be included in the Budget Justification.

Travel

Explanation of travel costs should be provided and include information regarding personnel that will be traveling to planned

meetings or seminars, as well as any other applicable travel-related costs.

Equipment

An explanation of why the equipment requested is necessary based on the planned activities of the grant to be implemented. Copies of any quotes received related to equipment rental should be included.

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Supplies

An explanation of why the supplies requested are necessary based on the planned activities of the grant to be implemented.

Contractual

A detailed explanation of the following information should be provided for each professional providing services to the grant:

Contractor Name (May be generic, i.e., teacher, lawyer, etc.)
Method of Selection
Period of Performance
Method of Accountability
Itemized Budget
Justification

Other Cost

Subgrantees should provide copies of quotes and bills documenting budgeted amounts for rental of meeting rooms, utilities, and other miscellaneous costs.

Sample Budget

Personnel

<u>Position</u>	<u>Ann. Salary</u>	<u>% Time</u>	<u>Budget Amount</u>	<u>Fed. Req.</u>	<u>Match</u>
Director	\$30,000	100%	\$30,000	\$30,000	0
Bookkeeper	\$25,000	20%	\$ 5,000	\$ 2,500	\$2,500
Secretary	\$15,000	50%	\$ 7,500	\$ 6,000	\$1,500
Total Personnel			\$42,500	\$38,500	\$4,000
Fringe Benefits			\$ 7,395	\$ 7,395	0

Fringe benefits are calculated using the rate of 7.65% for FICA/Medicaid and 9.75% for retirement for a total of 17.4%. \$42,500

Total Travel			\$ 3,000	\$ 3,000	0
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Conference Travel \$1,000 + Regular Travel \$2,000 = \$ 3,000

Air Fare for 2 people for Conference @ \$400 = \$ 800

Meals/Lodging for 2 people for 1 night @ \$100 = \$ 200

Regular Travel \$2,000

(**Note:** On the actual budget, a listing of planned trips should be included detailing the number of trips planned, the destination, the number of miles per trip, and the total amount budgeted)

Equipment Total \$10,700 0 \$10,700

Use of desktop computer station and computer. Rental amounts quoted from XYZ Computers: 12 months @ \$225 per month = \$2,700

Use of copier quoted from ABC Copiers: 12 months @ \$250 = \$3,000

Use of televisions, video cassette players, overhead projectors, desktop computer workstation, and desktop copier quoted from AAA Office Products: 50 days @ \$100 per day = \$5,000

Supplies Total \$ 1,500 \$ 1,500 0

General Office Supplies: pens, paper, organizers, instructional supplies for parent seminars: \$300

Use of three part curriculum used as in-kind match: \$1,200

(**Note:** In actual budget, the name of the curriculum and the source of the amounts quoted should be listed.)

Contractual \$10,000 0 \$10,000

Professionals in the medical and legal fields, law enforcement, teachers, counselors, and other program administrators for resource speakers and consultants: \$10,000

(**Note:** In actual budget, a listing of the speakers and consultants should be provided including the number of presentations or number of days to be worked and the amounts to be paid for each person.)

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Other (Room rental, postage, utilities)	\$25,000	0	\$25,000
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(**Note:** In the actual budget, a detailed listing of the room rental rates and number days, utilities allocation based on program utilization, and expected postage costs should be provided.)

Total	\$100,095	\$50,395	\$49,700
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Payments and Cost Reporting

In most instances, subgrantees are funded under a cost reimbursement method. Subgrantees make written requests for reimbursement of expenditures incurred for the previous month(s). Reimbursement requests are required to be compared with the grant budget by the program director prior to approval for payment. Subgrantees are required to submit documentation supporting all expenditures being reimbursed and all in-kind match claimed. A lack of proper supporting documentation could result in reimbursement claims being delayed or returned to the subgrantee unpaid.

Examples of the documentation required are listed below related to each type of reimbursement. Additional documentation may be required at the agency's discretion based on the need to ensure proper expenditure of grant funds.

Personnel and Fringe Benefit Costs

Copies of payroll registers or payroll reports indicating the gross salary and wage amounts paid plus any matching or additional amounts paid related to FICA, retirement, health insurance, etc., as well as copies of canceled payroll/salary checks must be submitted.

Travel Cost

Travel vouchers reporting the dates, points of the travel, and the purpose for the travel costs claimed by the subgrantee are required. A separate travel voucher must be completed and signed by each person traveling during the reimbursement period. Copies of receipts must be submitted for hotel bills, and common carriers (i.e., airlines, bus companies). Receipts are not required for meal reimbursement by subgrantee employees in travel status but they must comply with limitations of Travel Policies established by the Mississippi Department of Finance and Administration and the MDH. Use of a

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personal vehicle will be reimbursed for allowed travel at the lower of the rate per mile established in the budget or the state-approved rate. No travel costs will be reimbursed for the cost of commuting. Additional information related to travel reimbursement and limitations can be obtained from the MDH program director for the grant being administered.

Supplies

Copies of invoices, receiving reports, and canceled checks for purchase of supplies must be submitted with the reimbursement request.

Equipment

Copies of invoices for equipment rental or purchases must be submitted along with copies of canceled checks. In-kind matching claims for use of equipment owned or leased by the subgrantee must be in accordance with the approved subgrant budget.

Contractual Costs

Actual expenditures for program speakers and consultants must be documented by providing copies of canceled checks. In addition documentation of the time, date, and location of meeting or seminar must be provided. In-kind matching claims must be documented by having the speaker or consultant sign an in-kind contribution sheet verifying the time spent related to the grant. Sign in lists should be completed during seminars or meetings and copies submitted with the other contractual cost documentation.

Other Cost

Other costs such as room rent, postage, and utilities should be documented by the subgrantee by providing copies of canceled checks, rental agreements, postage receipts, and utility bills.

In-Kind Match Claims

Documentation for cash amounts paid as in-kind match must include copies of documents as listed in the various categories above. Non-cash in-kind matching requires completion of in-kind contribution

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sheets by volunteer workers, speakers, and consultants. Non-cash in-kind matching provided by the use of equipment or real property must be in accordance with the subgrant budget.

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V. PROCUREMENT

Subgrantees shall use the MDH procurement procedures which reflect applicable state and local laws and regulations, provided that procurements conform to the standards set forth in 45 CFR Part 74 and Part 92 or applicable federal laws and Section 31-7-13 Mississippi Code of 1972, Annotated

METHOD OF PROCUREMENT

All procurement transactions shall be made by one of the following methods:

1. **PROCUREMENT BY SMALL PURCHASE PROCEDURES:** For procurement of services, supplies, or other property with an aggregate cost of more than \$500, but not more than \$15,000, written price or rate quotations shall be obtained from at least two qualified sources. The aggregate sum of all items being purchased is considered one purchase.
2. **PROCUREMENT BY SEALED BIDS:** Formal advertising in a newspaper of general circulation once each week for two consecutive weeks for competitive sealed bids is required for all purchases that exceed \$15,000. Bids may not be due less than seven working days following the date the last advertisement appears in the newspaper.
3. **PROCUREMENT BY COMPETITIVE PROPOSALS:** Formally publicizing a request for proposals that normally results in conducting competitive negotiation with more than one source submitting an offer. This method is generally used when conditions are not appropriate for the use of sealed bids. All evaluation factors and their relative importance will be identified. There will be procedures for technical evaluations of the proposals and selection of the successful proposal. Awards are made to the proposal most advantageous to the program, with price and other factors considered.
4. **SOLE SOURCE PROCUREMENT:** Noncompetitive negotiation with a single source: In the purchase of noncompetitive items or services only available from one source, or a certification of the conditions and circumstances requiring the purchase, shall be filed by the subgrantee/subcontractor with the appropriate MDH Office Director. Upon receipt of such certification, the appropriate MDH Office Director may, in writing, authorize or deny the purchase within 5 working days.

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5. **EMERGENCY PROCUREMENT:** The appropriate MDH Office Director may authorize emergency procurements under the conditions as defined in state law, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances.

Explicit regulations apply to each procurement method. Subgrantees should proceed with procurement activities only after careful study of the regulations reveals that all requirements have been satisfied.

SELECTION PROCEDURES

1. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with 45 CFR Part 74 and Part 92 and/or applicable state or federal law. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to:
 - Placing unreasonable requirements on firms/service providers in order for them to qualify to do business;
 - Noncompetitive practices between firms/service providers;
 - Organizational conflicts of interest; and
 - Requiring unnecessary experience and excessive bonding requirements.
2. The subgrantee shall have written procedures and may adopt by reference procedural requirements of 45 CFR Part 74 and Part 92 and/or applicable state or federal law.

SUBGRANTEE'S INDEPENDENT CONTRACTOR/SUBCONTRACTOR

If the provisions of a subgrant commit a contractor/subcontractor to manage and administer grant-supported projects, the contractor/subcontractor must be bound by its contract to adhere to the MDH Subgrantee Manual, applicable state and federal law, and all guidelines established by the MDH program providing the grant funding.

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PROCUREMENT GUIDELINES

Subgrantees are advised to pay particular attention to 45 CFR Part 74 and Part 92 and any other applicable state or federal laws regulating procurement. Stated therein are the governing regulations and implementing guidelines for all procurement activity undertaken with grant funds. Some of those procurement standards, with particular applicability highlighted, are:

1. Subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
2. Procedures **will** allow for analysis of the most economical approach in purchasing, including lease versus purchase alternatives. Proposed procurements will be reviewed to avoid purchase of unnecessary or duplicative items.
3. Subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
4. Subgrantees will maintain records sufficient to detail the significant history of a procurement.
5. These standards do not relieve the subgrantee of any contractual responsibilities under its subgrants. The subgrantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a subgrant. These include, but are not limited to, source evaluation, protests, disputes, and claims.

Code of Conduct

There can be no conflict of interest, real or apparent, in the award or administration of a contract supported by grant funds. The subgrantee shall maintain a written code or standards of conduct that shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by state or federal funds. See 45 CFR Part 74 and Part 92 and/or applicable state or federal law for further specific guidance.

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VI. RECORD RETENTION AND ACCESS

Appropriate retention of subgrant records is vital to maintaining accountability for proper use of subgrant funds. Subgrantees of the MDH are required to retain all records pertinent to the subgrant, to allow access to such records, and to allow timely and reasonable access to subgrantee personnel for the purpose of interview and discussion related to such documents.

Financial records, supporting documents, statistical records, personnel records, and all other records pertinent to the subgrant shall be retained for a period of three (3) years from the date of final program reimbursement. The only exceptions are as follows:

1. If any litigation, claim, financial management review, or audit is started before the expiration of the three (3) year period, the records shall be retained until all such litigation, claims, reviews (including monitoring findings), or audit findings involving the records have been resolved and final action taken.
2. Records for real property and equipment acquired in whole or in part with Federal or State funds shall be retained for three years after final disposition of such property.
3. When records are transferred to or maintained by the Federal sponsoring agency or to the MDH, the three (3) year retention requirement is not applicable to the subgrantee.

NOTE Prior to the destruction of any records, the subgrantee must obtain written approval of the Program Director or the granting MDH Division. Improper destruction of records is a serious matter which subjects the subgrantee to the risk of debarment sanctions.

MDH program directors are responsible for ensuring that records of subgrantees, whose subgrants are ceasing or have already done so, are properly safeguarded. If it is determined that the safety of the records should be enhanced, MDH representatives will be authorized to request transfer of records or remove records immediately from the subgrantee's possession.

The MDH, the Federal grantor agency, the State Auditor, the Comptroller General of the United States, or any of such duly authorized representatives shall have the

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right to timely and unrestricted access to any of the subgrantee's books, documents, papers, or other records that are pertinent to the subgrant, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the subgrantee's personnel for the purpose of interviews and discussions related to these documents. Access rights described here shall last as long as the records are required to be retained.

These records include, but are not limited to, the items listed below:

1. Financial reports covering expenditures of the subgrant;
2. Internal and external audit reports and program evaluations;
3. Executed copy of the subgrant agreement and any modifications;
4. Approved budget, budget narrative, and any modifications;
5. Contracts, leases, employment agreements, and purchase invoices;
6. Cost allocation plans and/or indirect cost rate proposals, and related supporting documentation;
7. All invoices, billings, receiving reports, requests for cash, and reporting worksheets;
8. General ledger, general journal, cash receipts journal, cash disbursements journal, payroll earnings register, and all subsidiary records;
9. All personnel records of all individuals paid in whole or in part with subgrant funds including employment applications, personnel files, time and attendance reports, wage authorizations, tax withholding forms, authorization for any deductions, time and effort records, leave records, and all other relevant data;
10. Inventory records for all property purchased in whole or in part with subgrant funds, indicating acquisition date, cost of the property, identification number, location and use of the property, and evidence that procurement requirements have been met;
11. Bank statements, bank statement reconciliations, all canceled or voided checks, and deposit records;
12. Documentation of proper insurance/bonding coverage; and
13. Programmatic records of all types, as pertinent to particular programs involved.

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VII. AUDITS AND MONITORING

General Information for Audits

The MDH Office of Performance Accountability (OPA) is responsible for oversight of the subgrantee audit process and fiscal activities involving subgrants and contracts. The OPA should collaborate with the various program directors through which the MDH provides subgrants or contracts for state or Federal funds, to ensure appropriate audits are performed, to ensure resolution of audit findings by the subgrantees, and to monitor success of corrective actions taken.

The provisions of this section do not limit the authority of Federal agencies or their Inspectors General or other Federal officials, the MDH, or the Office of the State Auditor, or their duly authorized representatives, to make or contract for audits, evaluations, or reviews. Subgrantees shall not constrain the above-named agencies, in any manner, from carrying out audits, evaluations, or reviews.

All MDH subgrantees are required to complete the MDH Subgrantee Audit Information Form. This form must be submitted to the Office of Performance Accountability no later than ninety (90) calendar days after the end of the subgrantee's fiscal year. This form is necessary to certify the sources and amounts of all Federal awards received and expended by the subgrantee.

The audit and monitoring section of this manual have been prepared using as references the Single Audit Act Amendments of 1996 (Public Law 104-156) as implemented by the Office of Management and Budget (OMB) through OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions"(62 FR 35278). Subgrantees that are commercial organizations (i.e., for-profit) shall not be subject to the audit requirements contained in OMB Circular A-133 unless specifically required by program regulations or by the terms and conditions of the subgrant agreement.

Subgrantees are subject to audit requirements based on the amount of federal financial assistance received during the subgrantee fiscal year. Those requirements are as follows:

1. If a subgrantee spends less than \$500,000, it shall be exempt from Federal audit requirements, but must make records available for review by appropriate officials of the MDH or the Federal grantor agency, or their duly authorized representatives. In addition, these subgrantees shall

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complete the MDH Subgrantee Audit Information form and submit the form to the Office of Performance Accountability no later than ninety (90) calendar days after the end of the subgrantee's fiscal year;

2. If a subgrantee spends \$500,000 or more under only one Federal program, it may elect to have a program-specific audit, or a series of program audits, performed on each subgrant awarded by the MDH in accordance with Government Auditing Standards, or an organization-wide audit performed in accordance with OMB Circular A-133.
3. If a subgrantee spends \$500,000 or more under more than one Federal program, it shall have an organization-wide audit performed in accordance with OMB Circular A-133, except that a subgrantee that is a commercial organization which is specifically required by program regulations or by the terms and conditions of the subgrant agreement to have an MDH subgrantee audit, may elect to have a program-specific audit of all MDH subgrants performed in accordance with Government Auditing Standards.

Responsibilities of Subgrantees Related to Audits

The subgrantee shall:

1. Maintain and make records available for review or audit by appropriate officials of the Federal agency, the MDH Office of Performance Accountability, the Mississippi State Department of Audit, the General Accounting Office (GAO), and/or the subgrantee's independent auditor.
2. Prepare financial statements that reflect its financial position, results of operations, and, where appropriate, cash flows for the fiscal year audited. The subgrantee shall also prepare a schedule of expenditures of state and/or Federal awards for the period covered by the subgrantee's financial statements, which should be prepared in accordance with paragraph .310 of OMB Circular A-133.
3. Follow procurement standards prescribed by OMB Circular A-110 in arranging for an independent audit to be performed by a Certified Public Accountant (CPA), approved in advance by the MDH, in accordance with GAAS, GAGAS, or OMB Circular A-133, when applicable.
4. Ensure that audits are conducted and reported in accordance with

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Government Auditing Standards and/or Subpart E of OMB Circular A-133, as applicable, and submitted to the MDH Office of Performance Accountability within nine (9) months after the end of the subgrantee's fiscal year.

5. Be responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the subgrantee shall prepare a summary of prior audit findings and a corrective action plan for current year audit findings. At the completion of the audit, the subgrantee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date.
6. Have a particular program audited as a major program, if a subgrantee is required to have an organization-wide audit, upon request of the MDH. Such requests shall be made at least 180 days prior to the end of the fiscal year to be audited. The subgrantee, after consultation with its auditor, shall inform the MDH whether the program would otherwise be audited as a major program using a risk based approach and, if not, the estimated incremental costs. The MDH shall then promptly confirm to the subgrantee whether it wants the program audited as a major program.
7. Ensure that adequate funding is available to cover the cost of audits made in accordance with this section, either from non-federal non-matching sources or as part of the subgrant agreement or other arrangement approved in advance by the MDH granting division. For any audit costs charged directly or indirectly to any MDH subgrant, or otherwise paid by an MDH granting division, the subgrantee shall submit a detailed invoice to the MDH granting division that indicates the total audit cost, the audit cost allocated to each subgrant, and the basis for allocating the audit cost to the subgrant.
8. Complete the MDH Subgrantee Audit Information Form and submit the form to the Office of Performance Accountability no later than ninety (90) days from the end of the subgrantee's fiscal year.

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General Information for Monitoring

The monitoring procedures in this section are designed to ensure that all subgrants under the jurisdiction of the MDH are administered in compliance with laws and regulations applicable to federal financial assistance programs and in accordance with the terms of the subgrant agreement. With the variety of programs administered by the MDH, the MDH Office Director of the granting division is responsible for oversight of the development of appropriate monitoring instruments specifically designed to ensure compliance with program requirements, cost principals and good management practices.

Responsibilities of the MDH Office and Program Directors

The MDH program directors will conduct at least one in-depth monitoring review of each MDH subgrant during the subgrant period. This in-depth monitoring review will include completion of a desk review monitoring instrument, an on-site review monitoring instrument, and a monitoring report. Monitoring reviews will be conducted according to the following general guidelines:

1. Desk Review - A desk review should be performed at least once during the subgrant period on each subgrant awarded by the MDH. This Desk Review should consist of review, analysis, and notation of:

- Subgrant Agreement
- Subgrant Modifications
- Compliance with Grant Requirements
- Compliance with Cost Principals
- Correspondence
- Monthly Reporting Worksheets
- Requests for Reimbursements
- Programmatic Reports
- Prior Monitoring Findings
- Prior Year Audit Findings

The desk review monitoring instrument should be completed by the monitor(s) to determine compliance with state and federal regulations. Any deficiencies or problem areas noted during the desk review should be identified in the monitoring report.

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- 2 On-Site Review - An on-site review should also be conducted at least once during the subgrant period on each subgrant awarded by the MDH. A programmatic monitoring instrument should be completed for each on-site review. This instrument should provide for a review of all significant aspects of the grant both financial and programmatic. All instances of noncompliance or other problems should be fully documented in order to support findings and, if applicable, to determine the amount of questioned costs required to be reimbursed by the subgrantee. This on-site review should consist of:
 - a. Notification - Subgrantees should be notified, in writing, two (2) weeks prior to a routine On-Site Review. Such written notification should include the date and time of the entrance conference, approximate date and time of the exit conference, appropriate staff to be present, and the MDH contact person for the review. The MDH reserves the right to conduct unannounced reviews at its discretion.
 - b. Entrance Conference - Each On-Site Review will begin with a conference in which the monitor(s) will brief the subgrantee signatory official (or designee), project director, fiscal officer, or other appropriate subgrantee staff of the purpose and scope of the monitoring review.
 - c. Exit Conference - Each On-Site Review will conclude with an exit conference in which the monitor(s) will advise the subgrantee signatory official (or designee), project director, fiscal officer, or other appropriate staff of the preliminary results of the on-site review and of the monitor(s) recommendations of corrective actions necessary to resolve each finding. It should be noted that the monitor(s) recommendations are not officially required actions until transmitted in writing to the subgrantee.
 - d. Written Report - A written report that follows a standard format should be completed upon return from an On-Site Review. The Monitoring Report should be completed within 30 calendar days after the exit conference. The report should consist of the following:
 - A cover letter listing the subgrantee's name and address,

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the subgrant funding source, period, and effective dates as well as the monitor's name, date of monitoring, and a contact person and telephone number. This cover letter should also summarize the specific findings, suggested corrective action, and questioned costs listed in detail in the monitoring report. If no significant findings were noted, the cover letter should indicate that no response is necessary.

- A monitoring report providing a narrative description of each significant instance discovered of noncompliance with federal law or regulation, state law, MDH policy, or the terms of the subgrant agreement. This narrative should clearly indicate the condition found and contain all pertinent information related to the exception(s) found.
- e. Corrective Action Process - Each written report forwarded to the subgrantee containing significant findings and suggested corrective action will require a written response from the subgrantee within 30 calendar days. Upon receipt of the response from the subgrantee, the Program Director, the Office Director, and other appropriate staff, as needed, will assess each response for adequacy. If all responses are adequate, the response will be accepted by a letter to the subgrantee. For inadequate responses, the subgrantee should be written a second letter indicating the additional suggested corrective action needed to address the finding.
- f. Follow-up - The Program Director and Office Director should determine the extent of any additional follow-up reviews or procedures necessary to ensure the corrective action(s) described by the subgrantee has been implemented and is operating effectively.
- g. Documentation - The Program Director should maintain copies of all monitoring documents and periodic review of the completeness of the monitoring process should be performed by the MDH Office Director of the granting division.

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Responsibilities of the Office of Performance Accountability

The MDH Office of Performance Accountability (OPA) staff is responsible for periodic evaluation and review of the monitoring process established and performed by programmatic staff to ensure that appropriate internal controls have been established and are operating effectively. Internal audit reports should be prepared and routed to the State Health Officer in accordance with policy dictated in the MDH General Agency Manual.

The OPA is also responsible for ensuring the required subgrantee audits are submitted. OPA staff will review the audit and issue management decisions on audit findings within 6 months after receipt of the subgrantee's audit reports. The OPA will also ensure the subgrantees took appropriate and timely corrective action on all audit findings.

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INSTRUCTIONS FOR COMPLETING THE SUBGRANTEE AUDIT INFORMATION FORM

Section I – Information Identifying the Subgrantee:

Indicate the name of the subgrantee organization and any other names the subgrantee organization has done business as during the latest fiscal year.

Indicate the type of organization (i.e., State or Local Governmental Unit, Not-For-Profit Organization, Commercial Organization, or Institution of Higher Education).

Indicate the mailing address of the subgrantee organization, and street address if different.

Indicate the name and title of the subgrantee contact person.

Indicate the area code and telephone number where the contact person can be reached by phone.

Indicate the ending date of the subgrantee's fiscal year (including the month, day and year) or the period covered by the Audit if anything other than a twelve month period is used.

Indicate the basis of accounting used by the subgrantee (i.e., cash basis, full accrual basis, modified accrual basis, or if some other basis is used, specify the basis used).

Section II – Information Identifying the Sources and Amounts of all Federal Financial Assistance:

Indicate the name of the pass-through grantor (i.e., MDHS, MDA, DHHS, USDA, Commerce, etc.).

Indicate the grant identifier number or the pass-through grantor's number (i.e., 123A456).

Indicate the program title of each award of federal financial assistance (i.e., Social Services Block Grant, Child Care and Development Fund, Temporary Assistance for Needy Families, etc.).

Indicate the Catalog of Federal Domestic Assistance (C.F.D.A) number for each award or subaward of federal financial assistance active during the subgrantee's fiscal year.

Indicate the total amount of expenditures of federal financial assistance under each award or subaward of federal financial assistance active during the subgrantee's fiscal year.

Section III – Information Identifying the Audit Firm and Type of Audit Performed:

Indicate the name and address of the audit firm engaged to perform the audit.

Indicate the date the audit was completed, or the anticipated completion date for audits in progress.

Indicate the type of audit performed or that no audit is required (i.e., Organization-wide audit conducted in accordance with OMB Circular A-133, a program specific audit conducted in accordance with Government Auditing Standards, or a financial statement audit conducted in accordance with Generally Accepted Auditing Standards).

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Section IV – Certification of Information and Amounts:

Indicate that the information presented on the form is true and correct as evidenced by the signature of the Authorized Subgrantee Official.

Indicate the date signed, the printed name and the title of the Authorized Subgrantee Official.

SUBMIT THE COMPLETED AND SIGNED MDH – SUBGRANTEE AUDIT INFORMATION FORM TO:

**THE MISSISSIPPI DEPARTMENT OF HEALTH
ATTN: OFFICE OF PERFORMANCE ACCOUNTABILITY
570 EAST WOODROW WILSON
JACKSON, MS 39216**

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MDH SUBGRANTEE AUDIT INFORMATION FORM

Section I: Please complete the following information identifying the subgrantee:

Subgrantee Name: _____ Organization Type _____
(Government/Non-Profit/Commercial/Higher Ed.)

Address: _____

Contact Person: _____ Telephone Number: (____) _____

Ending Date of Fiscal Year: _____ Basis of Accounting: _____
(Month/Day/Year) (Cash/Accrual/Modified Accrual/Other)

Section II: Please complete the following information for each award or subaward of federal financial assistance that was active during the subgrantee's fiscal year:

Pass-Through Grantor	Grant Identifier or Pass-Through Grantor's Number	Program Title	C.F.D.A. Number	Expenditures of Federal Financial Assistance Incurred

Section III. If an audit has already been performed or if an audit firm has been engaged to perform an audit, please complete the following items:

Name and address of the audit firm engaged to perform the audit: _____

Date audit was completed, or anticipated completion date for audits in progress: _____

Type of audit performed: _____
(A-133 Organization-Wide/GAS-Program Specific / GAAS-Financial Statement / No Audit Required)

Section IV. The information and amounts identified above are true and correct to the best of my knowledge:

(Signature of Authorized Official)

(Date)

(Printed Name of Authorized Official)

(Title of Authorized Official)

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VIII. DEBARMENT AND SUSPENSION

Policy

In order to protect the public's trust, it is the policy of the MDH to conduct business only with responsible persons. However, when it appears that a subgrantee's conduct, as determined by the agency, creates a reasonable belief that a particular act or omission has occurred, the MDH shall implement discretionary actions known as debarment and suspension, which may lead to termination. A subgrantee that is disbarred or suspended shall be excluded from agency financial and nonfinancial assistance and benefits. These are serious actions which shall be used only in the public interest and for the agency and State of Mississippi's protection and not for purposes of punishment.

Coverage

This policy shall apply to all persons who are currently participating in transactions under state nonprocurement programs. For purposes of these regulations, transactions will be referred to as covered transactions which may be subdivided into (1) primary covered transactions, (i.e., any nonprocurement transaction between the MDH and the subgrantee, regardless of type), or (2) lower tier covered transactions, (i.e., transactions between subgrantee and another) [other than a procurement contract for goods or services], regardless of type, under a primary covered transaction).

Effect of Action

Except to the extent prohibited by law, subgrantees that are debarred or suspended shall be excluded from primary covered transactions and lower tier covered transactions for the period of their debarment or suspension.

Debarment

The State Health Officer, or his designee, after consultation with the appropriate Office Director and legal staff, may debar a subgrantee for any of the causes noted below. However, the existence of a cause for debarment does not necessarily require that the subgrantee's acts or omissions and any mitigating factors shall be considered in making a debarment decision. Debarment means, for MDH purposes, an action taken by the agency in

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accordance with these regulations to exclude a subgrantee from participating in a covered transaction.

Causes for Debarment

Debarment may be imposed for:

1. Conviction of or civil judgment for:
 - a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
 - b. Violation of Federal or State antitrust statutes, including these proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
 - c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or
 - d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.
2. Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as:
 - a. A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
 - b. A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or
 - c. A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction.

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3. Any of the following causes:
 - a. A nonprocurement debarment by any Federal agency taken before October 1, 1988, the effective date of these regulations, or a procurement debarment by any Federal agency taken pursuant to 45 CFR Part 76; and
 - b. Knowingly doing business with a debarred, suspended, ineligible, or voluntarily excluded person, in connection with a covered transaction, except as permitted by the agency.

Procedure

The MDH shall process debarment actions as informally as practicable, consistent with the principles of fundamental fairness. Information concerning the existence of a cause for debarment from any source shall be promptly reported, investigated, and referred, when appropriate, to the debarring official for consideration. After consideration, the debarring official, executive director or his designee may issue a notice of proposed debarment.

Notice of Proposed Debarment

A debarment proceeding shall be initiated by notice to the subgrantee advising:

1. That debarment is being considered;
2. Of the reasons for the proposed debarment in terms sufficient to put the subgrantee on notice of the conduct or transaction(s) upon which it is based;
3. For the reasons covered in "Causes for Debarment" above;
4. Of the provisions regarding investigations, notice of proposed debarment, an opportunity to contest proposed debarment and a final decision; and
5. Of the potential effect of a debarment.

Opportunity to Contest Proposed Debarment

1. Submission in Opposition

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Within 30 days after receipt of the notice of proposed debarment, the subgrantee may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment.

2. Additional Proceedings As to Disputed Material Facts

In actions not based upon a conviction or civil judgment, if the debarring official finds that the subgrantee's submission in opposition raises a genuine dispute over facts material to the proposed debarment, subgrantee(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witness the agency presents.

A transcribed record of any additional proceedings shall be made available at cost to the subgrantee, upon request, unless the subgrantee and the agency, by mutual agreement, waive the requirement for a transcript.

Debarring Official's Decision (State Health Officer or His Designee)

1. No Additional Proceedings Necessary

In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submission made by the subgrantee. The decision shall be made within 45 days after receipt of any information and argument submitted by the subgrantee, unless the debarring official extends this period for good cause.

2. Additional Proceedings Necessary

In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the subgrantee and any other information in the administrative record.

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The debarring official may refer disputed material facts to another official for findings of fact. The debarring official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

The debarring official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

3. Standard of Proof

In any debarment action, the cause for debarment must be established by a preponderance of the evidence. Where the proposed debarment is based upon a conviction or civil judgment, the standard shall be deemed to have been met. The burden of proof is on the agency proposing debarment.

4. Notice of Debarring Official's Decision

If the debarring official decides to impose debarment, the subgrantee shall be given prompt notice:

- Referring to the notice of proposed debarment;
- Specifying the reasons for debarment;
- Stating the period of debarment, including effective dates; and
- Advising that the debarment is effective for covered transactions throughout the MDH.

If the debarring official decides not to impose debarment, the subgrantee shall be given prompt notice of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by the MDH.

Settlement and Voluntary Exclusion

When in the best interest of the agency, the MDH, at any time, may settle a suspension action.

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Period of Debarment

1. Debarment shall be for a period commensurate with the seriousness of the cause(s). If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.
2. The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest.

Suspension

Suspension is a serious action to be imposed only when there exists adequate evidence, as set out below, and immediate action is necessary to protect the public interest. For MDH purposes, suspension is an action taken by the agency in accordance with the following regulations that immediately excludes a subgrantee from participating in covered transactions for a temporary period, pending investigation and such legal action, debarment, or other proceedings as may ensue.

Causes for Suspension

Suspension may be imposed upon adequate evidence to suspect the commission of a debarment offense as listed in "Causes for Debarment" section above. Indictment shall constitute adequate evidence for purposes of suspension actions.

Procedures

Investigation and Referral

Information concerning the existence of a cause for suspension from any source shall be promptly reported, investigated, and referred, when appropriate, to the suspending official for consideration. After consideration, the suspending official may issue a notice of suspension.

Notice of Suspension

When a subgrantee is suspended, notice shall be immediately given:

1. That suspension has been imposed;
2. That the suspension is based on an indictment, conviction, or

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other adequate evidence that the subgrantee has committed irregularities seriously reflecting on the propriety of further agency dealings with the subgrantee;

3. Describing any such irregularities in terms sufficient to put the subgrantee on notice without disclosing the agency's evidence;
4. Of the causes relied upon above for imposing suspension;
5. That the suspension is for a temporary period pending the completion of an investigation or ensuing legal action, debarment, or other proceedings;
6. Of the notice of suspension, the opportunity to contest suspension, and the suspending official's decision; and
7. Of the effect of the suspension.

Opportunity to Contest Suspension

1. Submission in Opposition: within 30 days after receipt of the notice of suspension, the subgrantee may submit, in person, in writing, or through a representative, information and argument in opposition to the suspension.
2. Additional Proceedings as to Disputed Material Facts
 - a. If the suspending official finds that the subgrantee's submission in opposition raises a genuine dispute over facts material to the suspension, the subgrantee(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witness the agency presents, unless the action is based on an indictment, conviction, or civil judgment as described in the "Causes for Debarment" section above.
 - b. A transcribed record of any additional proceedings shall be prepared and available at cost to the subgrantee, upon request, unless the subgrantee and the agency, by mutual agreement, waive the requirement of a transcript.

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Suspending Official's Decision

The suspending official may modify or terminate the suspension or may leave it in force. A decision to modify or terminate the suspension shall be without prejudice, to the subsequent imposition of debarment. The decision shall be rendered in accordance with the following provisions:

1. **No Additional Proceedings Necessary**

In actions based on an indictment, conviction, or civil judgment in which additional proceedings to determine disputed material facts; or in which additional proceedings to determine disputed material facts have been denied on the basis of law enforcement advice, the suspending official shall make a decision on the basis of all information in the administrative record, including any submission made by the subgrantee. The decision shall be made within 45 days after receipt of any information and argument submitted by the subgrantee, unless the suspending official extends this period for good cause.

2. **Additional Proceedings Necessary**

In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the subgrantee and any other information in the administrative record. The suspending official may refer matter involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after

specifically determining them to be arbitrary or capricious, or clearly erroneous.

3. **Notice of Suspending Official's Decision**

Prompt written notice of the suspending official's decision shall be sent to the subgrantee.

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Period of Suspension

Suspension shall be for a temporary period pending the completion of an investigation or ensuing legal action, debarment, or other proceedings, unless terminated sooner by the suspending official.

If legal or administrative proceedings are not initiated within 12 months after the date of suspension notice, the suspension shall be terminated, unless the suspending official receives a request and determines that this time should be extended.